

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DANIEL E. HEDRICK,

Petitioner,

Civil No. 03-1179-AS

v.

ORDER

GUY HALL, Superintendent, Two Rivers
Correctional Institution,

Respondent.

HAGGERTY, Chief Judge:

Magistrate Judge Ashmanskas issued a Findings and Recommendation [44] in this action, recommending that petitioner's habeas petition be denied as untimely, and that a judgment of

dismissal be entered. On July 24, 2007, the matter was referred to this court. When a party objects to any portion of a Findings and Recommendation, the district court must conduct a *de novo* review of that Findings and Recommendation. 28 U.S.C. § 636(b)(1)(B); *McDonnell Douglas Corp. v. Commodore Bus. Mach. Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

The Findings and Recommendation provided a thorough analysis of the facts. This factual analysis is not objected to by petitioner, and need not be repeated here.

Petitioner concedes that he did not file his petition within the applicable statute of limitations, but requests an evidentiary hearing to demonstrate grounds for the equitable tolling of the statute. Petitioner does not challenge the material facts set forth in the Findings and Recommendation, nor does petitioner contend that the wrong legal standards were applied to his claims. Instead, petitioner rehashes arguments made in his habeas petition. These arguments were comprehensively addressed and resolved by the Findings and Recommendation. Petitioner relies on an affidavit submitted with his objections to support the argument that "his mental functioning is so handicapped that he could not have complied with the time lines required under the AEDPA." Objections p. 1. The Findings and Recommendations squarely addressed this argument, concluding "[p]etitioner has offered no evidence of extraordinary circumstances beyond his control." Findings and Recommendation p. 8. This court agrees.

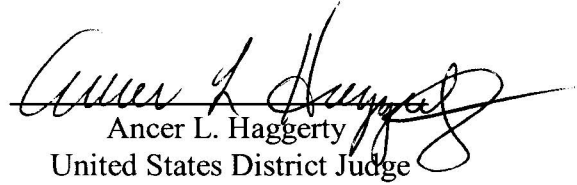
The court has given the file of this case a *de novo* review, and has also carefully evaluated the Findings and Recommendation, the objections, and the entire Record. The Judge's reasoning and recommendations are sound, correct, and entitled to adoption.

CONCLUSION

This court adopts the Findings and Recommendation [44]. Accordingly, the Petition for Writ of Habeas Corpus is DENIED and this case is DISMISSED.

IT IS SO ORDERED.

Dated this 27 day of August, 2007.


Ancer L. Haggerty
United States District Judge